

HOUSE BILL REPORT

ESHB 2097

As Passed Legislature

Title: An act relating to establishing a management program for Hood Canal rehabilitation.

Brief Description: Establishing a management program for Hood Canal rehabilitation.

Sponsors: By House Committee on Select Committee on Hood Canal (originally sponsored by Representatives Eickmeyer, Upthegrove, Hunt, B. Sullivan, Chase, Ericks, McCoy, Hunter, Pettigrew and Appleton).

Brief History:

Committee Activity:

Select Committee on Hood Canal: 2/22/05, 3/1/05 [DPS].

Floor Activity:

Passed House: 3/11/05, 58-36.

Senate Amended.

Passed Senate: 4/11/05, 35-13.

House Concurred.

Passed House: 4/20/05, 94-2.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Authorizes a program for Hood Canal rehabilitation.
- Designates the Puget Sound Action Team as the state lead agency for the Hood Canal rehabilitation program.
- Designates the Hood Canal Coordinating Council as the local management board for the program.
- Specifies a process for identifying and funding projects.
- Requires the local management board to submit quarterly progress reports to the participating counties, tribes, and agencies and an annual report to the appropriate committees of the Legislature.

HOUSE COMMITTEE ON SELECT COMMITTEE ON HOOD CANAL

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Eickmeyer, Chair; McCoy, Vice Chair; Pearson, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Appleton, Chase and Walsh.

Staff: Caroleen Dineen (786-7156).

Background:

Hood Canal is a glacier-carved fjord approximately 60 miles in length with approximately 180 miles of shoreline. Portions of Hood Canal have had low dissolved oxygen concentrations for many years. The University of Washington recorded low dissolved oxygen concentrations in the 1950s. In recent years, low dissolved oxygen concentration conditions and significant fish death events have been recorded on Hood Canal. The 2004 dissolved oxygen concentrations in southern Hood Canal were the lowest recorded concentrations for the water body.

The Puget Sound Action Team (PSAT) is a state agency that develops and coordinates water quality programs for Puget Sound. The Hood Canal Coordinating Council (HCCC) is a group of county and tribal governments established to address water quality problems and natural resource issues in the Hood Canal watershed. In May 2004, the PSAT and HCCC prepared a report - the *Preliminary Assessment and Corrective Action Plan (PACA)* - assessing sources of human-influenced nitrogen introduced into Hood Canal. The PACA identifies six major categories of human-influenced nitrogen sources and specifies recommendations for corrective actions for these categories.

Research and monitoring related to Hood Canal's low dissolved oxygen concentrations is being conducted. The Department of Ecology's marine waters monitoring program and the University of Washington's Puget Sound Regional Synthesis Model (PRISM) program involve testing at numerous Hood Canal stations. In addition, Hood Canal monitoring and research are being conducted by the United States Geological Survey and various local agencies and organizations. Further, a group of 20 federal, state, local, and tribal agencies and nonprofit organizations have established the Hood Canal Dissolved Oxygen Program (HCDOP), a three-year effort to coordinate Hood Canal monitoring, analysis, and modeling results.

Summary of Engrossed Substitute Bill:

Development of a Hood Canal rehabilitation program is authorized for Jefferson, Kitsap, and Mason Counties. The program is authorized within the area designated as an aquatic rehabilitation zone (ARZ) in legislation authorizing these zones [SHB 2081]. This area includes watersheds that drain into Hood Canal south of a line projected from Tala Point in Jefferson County to Foulweather Bluff in Kitsap County.

The Puget Sound Action Team (PSAT) is designated as the state lead agency for the Hood Canal rehabilitation program. The Hood Canal Coordinating Council (HCCC) is designated as the program's local management board. In addition to serving as the local management

board, the HCCC also must serve as the lead entity and regional recovery organization for Hood Canal summer chum and assist in coordinating Hood Canal watershed planning activities. The PSAT's and the HCCC's program activities are subject to the availability of funds appropriated for this purpose.

The PSAT and HCCC must participate in program development, and each must approve and co-manage program projects. The PSAT and the HCCC each may receive and disburse funds for projects, studies, and activities related to Hood Canal's low dissolved oxygen concentrations. The PSAT and HCCC must jointly coordinate a process to prioritize projects, studies, and activities for which the PSAT receives state funding specifically allocated for Hood Canal corrective actions. The PSAT and HCCC must develop funding criteria based on the likely value in addressing and resolving Hood Canal's low dissolved oxygen concentrations. Final project approval requires the consent of both the PSAT and the HCCC.

In developing the program and establishing the funding criteria, the PSAT and HCCC must solicit participation by federal, tribal, state and local agencies as well as universities and nonprofit organizations with expertise related to rehabilitation program activities. The local management board may include state and federal agency representatives or additional persons as nonvoting board members or may receive technical assistance and advice from them in other venues. The local management board also may appoint technical advisory committees as needed.

Reporting requirements are specified. The local management board must assess, with participating local and tribal governments, concepts for a regional governance structure and report the findings and recommendations to the appropriate legislative committees by December 1, 2007. The local management board also must submit a quarterly progress report to its participating counties, tribes, and state agencies. In addition, the local management board must submit an annual report to the appropriate legislative committees.

To fulfill its responsibilities, the local management board may have staff; enter into contracts; accept and disburse funds; make recommendations to local governments regarding potential regulations, programs, and incentives; pay necessary expenses; and choose a fiduciary agent.

Regulatory restrictions are specified. The rehabilitation program provisions do not provide the PSAT or the HCCC any regulatory authority. In addition, the HCCC (as the local management board) may not exercise authority over land or water within individual counties or otherwise preempt local government authority.

Authority of other entities is preserved. Any of the local management board's participating counties and tribes, any federal, tribal, state, or local agencies, or any universities or nonprofit organizations may continue individual Hood Canal rehabilitation efforts and activities. The local management board provisions do not preclude any local governments from entering into interlocal agreements. In addition, the rehabilitation program provisions do not prohibit any federal, tribal, state, or local agencies, universities, or nonprofit organizations from receiving funding for specific projects that may assist in Hood Canal rehabilitation.

The rehabilitation program provisions do not apply to forest practices regulated under the state's Forest Practices Act.

Legislative findings identify the substantial environmental, cultural, economic, recreational, and aesthetic importance of Hood Canal. Legislative findings also specify concerns regarding Hood Canal's low dissolved oxygen concentrations and identify numerous research, monitoring, and study efforts that are occurring with respect to this condition. Legislative findings also recognize a need for the state to take additional action to address Hood Canal's low dissolved oxygen concentrations. Legislative intent is specified to designate state and local entities to develop and coordinate Hood Canal rehabilitation program and funding.

The Hood Canal rehabilitation program provisions are codified in the new statutory chapter created in the ARZ legislation [SHB 2081].

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 2, 2005.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Original bill) The bill looks to the HCCC – an existing entity – to serve as the management board for the Hood Canal rehabilitation program. The HCCC already has an executive director and includes representatives of all three counties and the tribes. The HCCC can serve as the lead for this program.

(With concerns on original bill) The PSAT supports the findings of this bill. The Hood Canal is at risk; rehabilitation is necessary. The PSAT has partnered with HCCC and many other state and federal and local interests to identify problems, develop some early actions, organize research, and coordinate application of state and federal resources to projects. If the intent is to have the HCCC be the management board, the bill should specifically designate the HCCC.

The HCDOP was created a year ago and has served as a coordinating mechanism through the present. The HCDOP has functioned well and effectively represents various interests. Concern exists that with the momentum in the HCDOP, creating a new entity and getting it started may deplete some of the HCDOP energy.

Testimony Against: None.

Persons Testifying: (In support of original bill) Representative William Eickmeyer, prime sponsor.

(With concerns on original bill) Terry Hull, Puget Sound Action Team.

Persons Signed In To Testify But Not Testifying: None.